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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/534,197

04/13/2006

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RN02144

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10/12/2007

EXAMINER

GREEN, ANTHONY J

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

10/12/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/534,197

Applicant(s)

HARRISSON ET AL.

Examiner

Anthony J. Green

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1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 33-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33-56 is/are rejected.
- 7) ☒ Claim(s) 54-55 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Preliminary Amendment***

1. The preliminary amendment has been entered. Claims 1-32 were canceled and new claims 33-56 have been added.

### ***Claim Objections***

2. A series of singular dependent claims is permissible in which a dependent claim refers to a preceding claim which, in turn, refers to another preceding claim.

A claim which depends from a dependent claim should not be separated by any claim which does not also depend from said dependent claim. It should be kept in mind that a dependent claim may refer to any preceding independent claim. In general, applicant's sequence will not be changed. See MPEP § 608.01(n).

3. Claims 54-55 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Applicant is required to cancel the claims, or amend the claims to place the claims in proper dependent form, or rewrite the claims in independent form.

Note that claim 54 is dependent on claim 55 and therefore does not depend on a preceding claim.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 33-56 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 33 the phrase "the set of blocks B/set of blocks A" lacks proper antecedent basis.

In claim 37 the phrase "the amount of optional monomer(s) optionally not exceeding" lacks proper antecedent basis. Also it is unclear as to what is meant this phrase. That is, it is unclear as to what is meant by "amount of optional monomer(s) optionally not exceeding". Clarification is requested.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 38 recites the

broad recitation "average molecular mass of from 500 to 100 000:", and the claim also recites "optionally from 500 to 25 000" which is the narrower statement of the range/limitation.

In claim 39 it is unclear as to what is meant by the phrase "potentially cationic at the pH of the formulation or of use of the formulation". That is what is meant by "potentially cationic" and "of use of the formulation"? Clarification is requested.

In claim 40 it is unclear as to what is meant by the phrase "potentially anionic".

Claim 41 is indefinite as it recites the broad recitation "average molecular mass of from 500 to 100 000:", and the claim also recites "optionally from 500 to 25 000" which is the narrower statement of the range/limitation.

In claim 42 it is unclear as to what is meant by "of use of the formulation"? Clarification is requested.

Claim 43 is indefinite as it recites the broad recitation "average molecular mass of from 1000 to 200 000, and the claim also recites "optionally from 3000 to 30 000" which is the narrower statement of the range/limitation.

Claim 45 is confusing as written as it is unclear as to just what the cationic surfactant is supposed to be selected from due to the use of the phrase "and also a mixture of at least one cationic surfactant optionally softening and of at least one nonionic surfactant". Clarification is requested.

In claim 46 the phrase "the optional nonionic surfactant" lacks proper antecedent basis.

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In claim 48 the phrase "the copolymer of controlled architecture (C)/mass of surfactant (CSA)" lacks proper antecedent basis. The claim is indefinite as it recites the broad recitation "average molecular mass of from 0.0001 to 10, and the claim also recites "optionally from 0.001 to 2" which is the narrower statement of the range/limitation.

In claim 51 the preamble is inconsistent with that of claim 50 as claim 50 is not drawn to a "rinsing formulation" but rather a "formulation".

In claim 52 the claim is indefinite as it recites the broad recitation "average molecular mass of from 0.0001 to 1, and the claim also recites "optionally from 0.001 to 0.1" which is the narrower statement of the range/limitation.

Claim 54 is confusing and therefore vague and indefinite as it depends from claim 55 which is a later claim and claim 55 depends from claim 54. Therefore each claim depends from each other and vice versa. Further if applicant is intending claim 54 to depend from claim 53 the preamble of claim 54 is inconsistent with claim 53 as claim 53 is not drawn to an "ironing formulation" but rather a formulation.

***Allowable Subject Matter***

6. Claims 33-56 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

### ***Specification***

7. A substitute specification excluding the claims is required pursuant to 37 CFR 1.125(a) because the use of underlining in the specification is usually reserved to show additions made to the specification by amendment and the specification does not appear to be amended.

A substitute specification must not contain new matter. The substitute specification must be submitted with markings showing all the changes relative to the immediate prior version of the specification of record. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. An accompanying clean version (without markings) and a statement that the substitute specification contains no new matter must also be supplied. Numbering the paragraphs of the specification of record is not considered a change that must be shown.

### ***Information Disclosure Statement***

8. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a

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separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.


***References Cited By The Examiner***

9. The references cited by the examiner are cited as showing the general state of the art and as such they are not seen to teach and/or fairly suggest the instant invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony J. Green whose telephone number is 571-272-1367. The examiner can normally be reached on Monday-Thursday 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Anthony J. Green  
Primary Examiner  
Art Unit 1793

ajg  
October 10, 2007